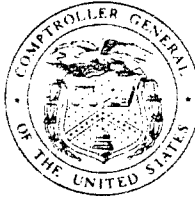


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DECISION

THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548

FILE: B-203326

DATE: June 19, 1981

MATTER OF: Wilderness Research Institute, Inc.

DIGEST:

Protester's late bid was properly rejected by agency, notwithstanding mailing via express mail service which guaranteed next-day delivery since that is not included in solicitation as condition permitting acceptance of late bid.

Wilderness Research Institute, Inc. (Wilderness), protests the rejection of its late bid under solicitation No. FWS-7-81-15 issued by the Department of Agriculture, United States Fish and Wildlife Service. Wilderness mailed its bid by United States Postal Service express mail, which guarantees overnight delivery. The solicitation's late bid provision stated that late bids received prior to award could be considered if they were sent by registered or certified mail not later than the fifth day prior to bid opening. Wilderness argues that its bid should be considered because express mail is the equivalent of registered or certified mail. Wilderness also recommends that the late bid regulations be changed to permit acceptance of late bids sent by express mail, if postmarked no later than 1 working day in advance of bid opening.

The agency properly rejected Wilderness' bid. Our Office has consistently held that it is the bidder's responsibility to assure timely receipt of its bid and must bear the responsibility of its late arrival unless the specific conditions of the solicitation are met. Gross Engineering Company, B-193953, February 23, 1979, 79-1 CPD 129. For purposes of late bid acceptance, express mail is not the equivalent of registered or certified mail. Berc Inc., B-202615, April 22, 1981, 81-1 CPD 313.

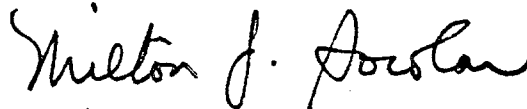
[Protest of Bid Rejection for Lateness]

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Concerning Wilderness' suggestion that the late bid regulations be revised to include consideration of late bids sent by express mail, in a letter, B-196350, January 21, 1981, accompanying Enrico Roman, Inc., B-196350, January 21, 1980, 80-1 CPD 61, we suggested that the Office of Federal Procurement Policy consider recommending such a change. The Office of Federal Procurement Policy did recommend to the authorities responsible for changes in the Defense Acquisition Regulation and the Federal Procurement Regulations that such a change be considered. Recently, we were advised that the change was still under consideration.

Since the protester's initial submission affirmatively demonstrates that the protest is without legal merit, we have decided the protest on that basis without requesting an agency report. Racon, Inc., B-199964, September 3, 1980, 80-2 CPD 174.

The protest is denied.

A handwritten signature in dark ink, reading "Milton J. Aorolan". The signature is fluid and cursive, with the first name "Milton" being the most prominent part.

Acting Comptroller General
of the United States